

HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES

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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, March 14, 2017
85th Legislature, Number 32
The House convenes at 10 a.m.

Four bills are on the daily calendar for second reading consideration today. The table of contents appears on the following page.

The following House Appropriations subcommittees were scheduled to hold formal meetings: Articles 6, 7 and 8 in Room E2.030 at 7:30 a.m. and Article 2 in Room E1.030 at 10 a.m. or on adjournment. The following House committees were scheduled to hold public hearings: Environmental Regulation in Room E1.026 at 8 a.m.; Insurance in Room E2.016 at 8 a.m.; Public Health in Room E2.012 at 8 a.m.; Homeland Security and Public Safety in Room E2.014 at 8 a.m.; Urban Affairs in Room E2.028 at 10:30 a.m. or on adjournment; Public Education in Room E2.036 at noon or on adjournment; Judiciary and Civil Jurisprudence in Room E2.026 at 2 p.m. or on adjournment; and Culture, Recreation and Tourism in Room E1.010 at 2 p.m. or on adjournment.

The following Senate committees were scheduled to hold public hearings: Business and Commerce in Room E1.016 at 8 a.m.; Finance in Room E1.036 (Finance Room) at 8 a.m.; Natural Resources and Economic Development in Room E1.012 at 9 a.m. or on adjournment; and Criminal Justice in Room E1.016 at 1:30 p.m. or on adjournment.



Dwayne Bohac
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, March 14, 2017

85th Legislature, Number 32

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SUBJECT: Extending the training period for a temporary insurance agent license

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul,
Sanford, Turner, Vo

0 nays

WITNESSES: For — Jennifer Cawley, Texas Association of Life and Health Insurers;
(*Registered, but did not testify*: Elizabeth Hadley, Aflac; Lee Loftis,
Independent Insurance Agents of Texas; Tim Von Kennel, NAIFA Texas;
Jay Thompson, Texas Association of Life and Health Insurers, Prudential,
American National; Amanda Martin, Texas Association of Business; Lee
Manross, Texas Association of Health Underwriters; Kandice Sanaie,
UnitedHealthcare; Miles Mathews, Voya Financial Services)

Against — None

On — (*Registered, but did not testify*: Joe Matetich, Office of Public
Insurance Counsel; Elijio Salas, Texas Department of Insurance)

BACKGROUND: Insurance Code, ch. 4001, subchapter D governs temporary licenses for
insurance agents. Under that subchapter, temporary licenses are valid for
90 days after the date of issuance. Sec. 4001.160 requires an agent,
insurer, or health maintenance organization that is considering
appointment of a temporary license applicant as its agent to provide to the
applicant at least 40 hours of training within 14 days of the date the
application, nonrefundable fee, and certificate are delivered or mailed to
the Texas Department of Insurance.

DIGEST: HB 1197 would increase to 30 days from 14 days the deadline by which
an applicant for a temporary insurance agent license must receive at least
40 hours of training.

This bill would take immediate effect if finally passed by a two-thirds
record vote of the membership of each house. Otherwise, it would take

effect September 1, 2017, and would apply only to applications delivered or mailed to the Texas Department of Insurance on or after the effective date.

**SUPPORTERS
SAY:**

HB 1197 would give temporary license applicants more flexibility in completing their required 40 hours of training. Temporary licenses are designed for those considering a career change to insurance, not insurance professionals. Many people applying for temporary licenses are working another full-time job and have trouble completing 40 hours of training within the 14 days allowed by current law. The bill would give them more time to complete this training.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

An identical companion bill, SB 519 by Creighton, was referred to the Senate Business and Commerce Committee on February 6.

SUBJECT: Authorizing provisional permits for life agent license applicants

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul,
Sanford, Turner, Vo

0 nays

WITNESSES: For — Jennifer Cawley, Texas Association of Life and Health Insurers;
(*Registered, but did not testify*: Jay Thompson, American National
Insurance Company, Prudential Financial, Texas Association of Life and
Health Insurers; Lee Loftis, Independent Insurance Agents of Texas; Tim
Von Kennel, National Association of Insurance and Financial Advisors-
Texas; Amanda Martin, Texas Association of Business; Lee Manross,
Texas Association of Health Underwriters; Kandice Sanaie,
UnitedHealthcare; Miles Mathews, Voya Financial Services)

Against — None

On — (*Registered, but did not testify*: Matthew Angus, Bryant Clayton,
and Cristina Self, Comptroller; Joe Matetich, Office of Public Insurance
Counsel; Eljio Salas, Texas Department of Insurance)

BACKGROUND: **Life agent license.** Under Insurance Code, sec. 4054.301, the holder of a
life agent license ("life-only license") may write insurance coverage on
human lives, annuity contracts or variable life contracts, insurance in
excess of \$25,000 on a single life, weekly premium life insurance on a
debit basis, or any other kind of insurance required by the commissioner.

Provisional permit. Insurance Code, ch. 4001, subch. H allows the Texas
Department of Insurance to issue provisional permits to certain applicants
for insurance agent licenses. These permits allow the applicant to act as an
agent for 90 days or until the applicant's application for license is
approved or denied. The department may issue provisional permits for the
following licenses: general property and casualty; county mutual; general
life, accident, and health; funeral prearrangement life insurance; and life

insurance not exceeding \$25,000.

To apply for a provisional permit, the applicant must complete an application for license and submit all related fees. The appointing agent or organization must submit certification that:

- the applicant has completed the required training and passed the required examinations;
- the applicant has undergone a background check and has not indicated any criminal convictions or administrative actions that would disqualify the applicant; and
- the appointing agent or organization will supervise the applicant's work while acting under permit.

DIGEST: HB 1073 would authorize the Texas Department of Insurance to issue provisional permits to applicants for a life agent license.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: HB 1073 would reduce the time qualified applicants for life-only licenses had to wait to begin working by providing them with permits as soon as they met the requirements. It would extend the provisional permit system created by the 84th Legislature in 2015 through the enactment of HB 2145 by Smithee without placing an unnecessary burden on the Texas Department of Insurance.

The bill would also would provide a more fair approach to provisional permits. Because some insurance companies offer only life insurance, not allowing their agents to participate in the provisional permit system puts them at an unfair disadvantage. Texas already offers provisional permits for other types of qualified insurance agents, including general agents who sell life insurance along with other types of insurance. This bill would treat life agents the same as their peers.

This bill also would improve efficiency for the insurance industry. Because insurance agents are paid by sales commission, an extended waiting period can cause some to leave the industry before insurance companies see a return on their training costs and other expenses

associated with turnover. Extending the provisional permitting system to life-only agents would allow insurance companies to keep more of these new employees.

The bill would not allow unqualified people to practice as agents. Applicants for provisional permits must already have passed their licensing examination and criminal background check, and their work would be supervised by a licensed insurance carrier.

**OPPONENTS
SAY:**

HB 1073, by temporarily allowing unlicensed people to work as life insurance agents, could increase risk to consumers and to the insurance companies that would be liable for the actions of the permit holder.

NOTES:

An identical companion bill, SB 520 by Creighton, was referred to the Senate Committee on Business and Commerce on February 6.

SUBJECT: Allowing for recovery of attorney's fees from other legal entities

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

WITNESSES: For — Jared Caplan; Peter Ruggero; (*Registered, but did not testify*: Jon Fisher, Associated Builders and Contractors of Texas; Bill Kelly, City of Houston Mayor's Office; Michael White, Texas Construction Association)

Against — None

BACKGROUND: Civil Practice and Remedies Code, sec. 38.001 allows a person to recover reasonable attorney's fees from an individual or corporation, in addition to the amount of a valid claim and costs, if the claim is for:

- rendered services;
- performed labor;
- furnished material;
- freight or express overcharge;
- lost or damaged freight or express;
- killed or injured stock;
- a sworn account; or
- an oral or written contract.

DIGEST: HB 744 would allow a person to recover reasonable attorney's fees from other legal entities, in addition to individuals and corporations, for claims specified under Civil Practice and Remedies Code, sec. 38.001. It would not authorize the recovery of attorney's fees from state or local governments and would not affect any other statute regarding recovery of attorney's fees from state or local governments.

The bill would take effect September 1, 2017, and would apply only to awards of attorney's fees in actions commenced on or after that date.

**SUPPORTERS
SAY:**

HB 744 would clarify that attorney's fees could be recovered from all forms of business organizations, not just corporations. While courts sometimes have allowed for the recovery of attorney's fees against various kinds of legal entities, including partnerships and limited liability companies, recent court cases have found that the language in current law limits those liable for attorney's fees to individuals and corporations and excludes other legal entities. There is no policy justification for this distinction between business structures, and HB 744 would provide needed clarity to ensure the law is applied consistently and according to its original intent.

HB 744 would specify that it did not authorize recovery of attorney's fees from state and local government entities, which also is consistent with the original legislative intent for this section. Recovery of attorney's fees from government entities is addressed in other sections of code.

**OPPONENTS
SAY:**

HB 744 would exclude government entities, which should have the same responsibilities as any other contracting person in Texas. It also could expand the prevalence of lawsuits.

SUBJECT: Allowing a justice from another county to conduct a death inquest

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr,
Neave, Rinaldi, Schofield

0 nays

WITNESSES: For — Bill Gravell, Roxanne Nelson, and Margaret Sawyer, Justices of the Peace and Constables Association; Lynn Holt, Texas Justice Court Judges Association; (*Registered, but did not testify*: Gina Ferguson, Brazoria County Clerk; Celeste Bichsel, Joyce Hudman, and Teresa Kiel, County and District Clerks Association of Texas; Jim Allison, County Judges and Commissioners Association of Texas; Melissa Shannon, Bexar County Commissioners Court; Charles Reed, Dallas County Commissioners Court; Jennifer Lindenzweig, Hunt County Clerk; Wayne Mack, Bobby Gutierrez, Carlos Lopez; Jama Pantel, and Andrea Schiele, Justices of the Peace and Constables Association of Texas; Ender Reed, Texas Association of Counties; Cindy Atkins; Paul Hudman)

Against — None

BACKGROUND: Code of Criminal Procedure, ch. 49, subch. A governs the duties of a justice of the peace performing a death inquest in a county that does not have a medical examiner's office or does not belong to a medical examiner's district. For a death that requires an inquest, a justice of the peace or county judge in the county where the death occurred must initiate the inquest. Art. 49.07 outlines the steps that a physician or person reporting the death must follow to notify the appropriate justice.

Government Code, sec. 27.054 establishes circumstances under which, by request, a justice of the peace may hold court in place of another justice of the peace in any county. This is known as a “bench exchange.”

DIGEST: HB 799 would amend Code of Criminal Procedure, art. 49.07 to allow a death inquest in a county without a medical examiner to be conducted by a justice of the peace from a county other than the one where the death

occurred, under certain circumstances.

Under the bill, in the event that a justice of the peace or county judge who had been notified of a death was unavailable to conduct an inquest, the physician or person reporting the death could ask the justice of the peace or county judge to request that a justice of the peace of another county without a medical examiner conduct the inquest.

HB 799 would require the out-of-county justice of the peace to transfer all inquest-related information back to the county of origin within five days for final disposition on the matter. The visiting justice of the peace would be entitled to no compensation, other than mileage, from the receiving county.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

HB 799 would help ensure that counties without medical examiners were able to competently perform death inquests in times of need, even when a local justice of the peace or county judge was unavailable. Under current law, death inquests in such counties must be performed by a justice of the peace or by the county judge when a person dies an unnatural death or the cause of a person's death is not known. If neither the justice of the peace nor the county judge is available, a county may have no way to initiate a timely investigation into the cause and manner of death. Without a final disposition of the cause of death, a deceased person's family cannot receive a certified copy of the death certificate, which may be necessary for finalizing a burial, addressing a life insurance claim, or contacting the Social Security Administration.

Because 69 Texas counties are served by only one justice of the peace and 47 counties have only two, these individuals are constantly on call, and it can be difficult for them to take leave. Many of these counties are geographically large, and it can take hours to travel from one end to another. In addition, mass-casualty incidents in counties served by only one justice of the peace can place a major physical and psychological burden on that justice. These factors could be mitigated by allowing justices of the peace in other counties to provide assistance.

Current law allows justices of the peace to conduct bench exchanges for holding court, and HB 799 would extend this practice to death inquests. By requiring the transfer of all case information back to the justice of the peace in the county of origin within five days, the bill would ensure that accountability for final disposition rested with the county's elected official.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

A companion bill, SB 378 by Perry, was reported favorably by the Senate State Affairs Committee on Feb. 21.